IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

MONDAY, THE 27TH NOVEMBER 2006 / 6TH AGRAHAYANA 1928

WP(C).No. 30411 of 2005(U)

OS.159/1999 of PRINCIPAL SUB COURT,PARAVUR

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PETITIONER:

1. VISUDHA OUSEPH PITHAVU'S THIRUNAL
   SADHUJANA MARANAVASYA SAHAYA SANGHOM,
   KURUMBATHURUTH, CHENNAMANGALAM VILLAGE,
   PARUR TALUK, ERNAKULAM DISTRICT, REG. NO.E.1528,
   REPRESENTED BY ITS PRESIDENT, THOMSON,
   S/O.JOHN.
2. SECRETARY,
   K.M.NICOLAS, S/O.AUGUSTINE.

BY ADV. SRI.P.L.DEVADAS

RESPONDENTS:

1. JOSA, S/O.THOMMAN,
   KONATHVEETTIL KURUMBATHURUTH,
   CHENNAMANGALAM VILLAGE, PARUR TALUK.
2. JOSEPH, S/O.SEBASTIAN, KALARITHARA,
   DO.DO.
3. JOHNSON, S/O.DEVASSY @ SEBASSTIAN,
   VEERANULLI VEETTIL DO.DO.
4. ALEXY, W/O.FRANCIES, KALLUNKAL DO.DO.
5. SHELLY, S/O.FRANCIS,
   KALLUNKAL, DO.DO.
6. SHEELA, D/O.FRANCIS, DO.DO.
7. MARY, W/O.JOSEPH,
   KALARITHARA, DO.DO.
8. SHEELA, W/O.SHIBU,
   MULOOR VADAKKUMPURAM.
9. MINI, W/O.JOHNSON,
   MUTTATHOTTIL, THURUTHIPURAM, DO.DO.

BY ADV. SRI.C.S.MANU
SRI.ANOOP JOSEPH
SRI.N.A.ALI
SRI.V.K.PRAVEEN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C)NO. 30411/05

APPENDIX

PETITINERS'EXHIBITS

EXT.P1: TRUE COPY OF THE PLAINT IN O.S.157/99 BEFORE THE DISTRICT COURT, ERNAKULAM.

EXT.P2: TRUE COPY OF THE PETITION IN I.A.4390/2005 IN O.S.157/1999 BEFORE THE SUB COURT, PARUR.

EXT.P3: TRUE COPY OF THE HAND WRITTEN COPY OF THE ORDER IN I.A.4390/2005 FROM 'A' DIARY DTD. 27.10.05

EXT.P4: TRUE COPY OF THE ORDER IN I.A.4390/05 BEFORE THSE SUB COURT, N.PARAVUR.

/TRUE COPY/

PA TO JUDGE.

M.SASIDHARAN NAMBIAR,J.

W.P.(C)NO.30411 OF 2005

DATED THIS THE 27th DAY OF NOVEMBER, 2006

JUDGMENT

Petitioners are challenging Ext.P4 order passed in I.A.4390/2000 filed by them to get themselves impleaded as additional plaintiffs 3 and 4. The suit was instituted by the Society, represented by the then Secretary and President. I.A.4390/2005 was filed by petitioners contending that the President and the Secretary who represented the Society at the time of institution of the suit were subsequently changed and petitioners are the present President and Secretary of the Society and therefore, they have to impleaded as additional plaintiffs 3 and 4. Learned Sub Judge dismissed the application with this order which reads:

"opposed since it is belated one dismissed".

This order is challenged in this petition filed under Article 227 of Constitution of India.

2. Learned Counsel appearing for petitioners

submits that when the plaintiffs' Society is represented by the earlier President and Secretary who are now no more the office bearers of the Society, Court below should not have dismissed the application and Ext.P4 order is to be quashed.

3. Learned Counsel appearing for first respondent argued that the suit was instituted in 1999 and even according to Petitioners the office bearers will be changed in every year and inspite of the change of office bearers, no attempt was made to implead the subsequent office bearers and petition was filed only on 25.10.2005 at the fag end and therefore it was rightly dismissed by the Court and there is no reason to interfere with that order.

4. The suit is filed by Society for realisation of the amount due to the Society from the respondents. The Society was represented by then President and Secretary. When they are no more the present office bearers of the Society, even if the petition filed to impled them was belated, learned Sub Judge

should not have rejected the application only on the ground of delay. As the Society is to be represented by its office bearers, Ext.P4 order is quashed. First petitioner is impleaded as the President who represents first plaintiff Society and second respondent is impleaded as the Secretary as sought for in I.A.4390/05. Respondents are entitled to file additional written statement. Sub Judge, Paravoor is directed to dispose the suit as expeditiously as possible and in any event with in six months from the date of receipt of a copy of this judgment.

M.SASIDHARAN NAMBIAR,JUDGE

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